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In re Application of :
RUDOLPH, James M. :
Serial No.: 09/194,021 :
PCT No.: PCT/US98/06452 : DECISION
Int. Filing Date: 01 April 1998 :
Priority Date: 03 April 1997 :
For: FILE WITH SANITIZING AGENT & METHOD :

This is also in response to applicants' "PETITION UNDER 37 CFR 1.181 AND/OR PETITION UNDER 1.137(b)" which is being treated as a petition under 37 CFR 1.137(b). The petition fee of \$605 has been submitted.

BACKGROUND

On 01 April 1998, applicant filed international application No. PCT/US98/06452, which claimed a priority date of 03 April 1997. A proper Demand was filed with the International Preliminary Examining Authority prior to the 19th month, as a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, or on 04 October 1999 (03 October 1999 was a Sunday).

On 18 November 1998, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, inter alia, the an authorization to charge the basic national fee to counsel's deposit account and a combined Declaration/Power of Attorney. The transmittal letter and Declaration/Power of Attorney referenced international application number PCT/US98/06542. It should have referenced international application number PCT/US98/06452.

On 27 August 1999, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration and surcharge was required. In response to the Notification of Missing Requirements, applicant filed a combined declaration/Power of Attorney referencing the incorrect international application number PCT/US98/06542.

The application was **ABANDONED** on 04 October 1999.

On 12 October 1999, applicant filed, via facsimile, a corrected transmittal letter for entry into the national stage in the United States accompanied by, inter alia, a combined declaration for patent application and Power of Attorney and a verified Statement(Declaration)claiming small entity status. The paper submitted referenced the correct international application number PCT/US98/06452.

On 24 November 1999, applicant filed the present "Petition Under 37 CFR 1.181 and/or Petition Under 1.137(b)" with the requisite fee for a small entity petition fee of \$605.00.

DECISION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the submission of the payment of the basic national fee of \$335.00.

As to Item (2), the appropriate petition fee of \$605.00 as required by 37 CFR 1.17(m) has been submitted.

With regard to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED**

The NOTIFICATION OF ACCEPTANCE (FORM PCT/DO/EO/903) mailed to applicant on 18 October 1999, a was improperly mailed to applicant. Therefore, the 18 October 1999 Notification of Acceptance is hereby **VACATED**.

The application has an international filing date of 01 April 1998 under 35 U.S.C. 363 and a date of **12 October 1999** under 35 U.S.C. 371(c) and 102(e).

This application is being forwarded to the National Stage Processing Branch of the International Division for treatment in accordance with this decision, that is for: (1) removing the papers to PCT/US98/06542 in the file; (2) placing the papers to PCT/US98/06452 in the file; (3) connecting PALM database; and (4) preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903). This application will then be forwarded to Application Processing Division for processing including the mailing of a filing receipt.



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